

Planning Commission Communication

Department:
Community Development

Case #SAV-16-001

Applicants:

James R. Huff
3204 Avenue K
Council Bluffs, IA 51501

Community Development
Department

Resolution of Intent No. _____

Resolution to Dispose No. _____

Planning Commission: 03/08/16

Subject

Request: Public hearing on the request of James R. Huff to vacate a 6' x 495' east/west alley section abutting Lots 1 through 11, Block 5, Benson's 1st Addition and to vacate a 66' x 130' section of unimproved North 32nd Street right-of-way, lying north of Avenue 'K'. The Community Development Department expanded the request to include vacating a 6' x 280' east/west alley section that abuts Lots 7 through 12, Block 4, Benson's 1st Addition.

Location: 3200 Avenue 'K', Council Bluffs, Iowa.

Background

The Community Development Department has received an application from James R. Huff to vacate an unimproved east/west alley that abuts Lots 1 through 11, Block 5, Benson's 1st Addition and to vacate an unimproved section of North 32nd Street right-of-way lying north of Avenue 'K' and between Blocks 4 and Blocks 5, Benson's 1st Addition (see Attachment 'A'). The applicant owns property at 3200 and 3204 Avenue 'K' along with a vacant 1.50 acre parcel immediately north of said addresses. The applicant requests to vacate the subject east/west alley so that he can combine property at 3204 Avenue 'K' with his vacant parcel for the purpose of constructing a new detached garage. Additionally, the applicant requests to vacate an unimproved section of North 32nd Street in order to construct an access driveway to his proposed garage and to install a privacy fence around his properties. A letter of intent which describes the purpose of said vacations was provided by the applicant and is included with this report as Attachment 'B'.

The Community Development Department expanded the request to include vacating the east/west alley abutting Lots 7 through 12, Block 4, Benson's 1st Addition in order to not create a dead-end alley. The east/west alley abutting Lots 1 through 6, Block 5, Benson's 1st Addition and Lots 1 through 6, Block 5, Melone's Addition was previously vacated by Ordinance No. 4394 on August 10, 1981 (see Case #SAV-81-002). The north half of said vacated alley was conveyed to the developer's of the Northgate Apartments. The south half of said vacated alley was never conveyed to the abutting property owners for reasons unknown at this time. These abutting property owners can request to acquire their portion of the vacated alley via an offer to buy City property.

The following attachments are included with this report:

- Attachment A: Zoning/location map of the subject alley and right-of-way vacation requests
- Attachment B: Letter of intent by the applicant

The following exhibits show the existing conditions of the subject alleys and unimproved North 32nd Street right-of-way.

Exhibit A: View of the unimproved North 32nd Street right-of-way.



Exhibit B: View of the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition.



Exhibit C: View of the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition.



Exhibit D: View of the applicant's vacant 1.5 acre parcel north of 3200 and 3204 Avenue 'K'.

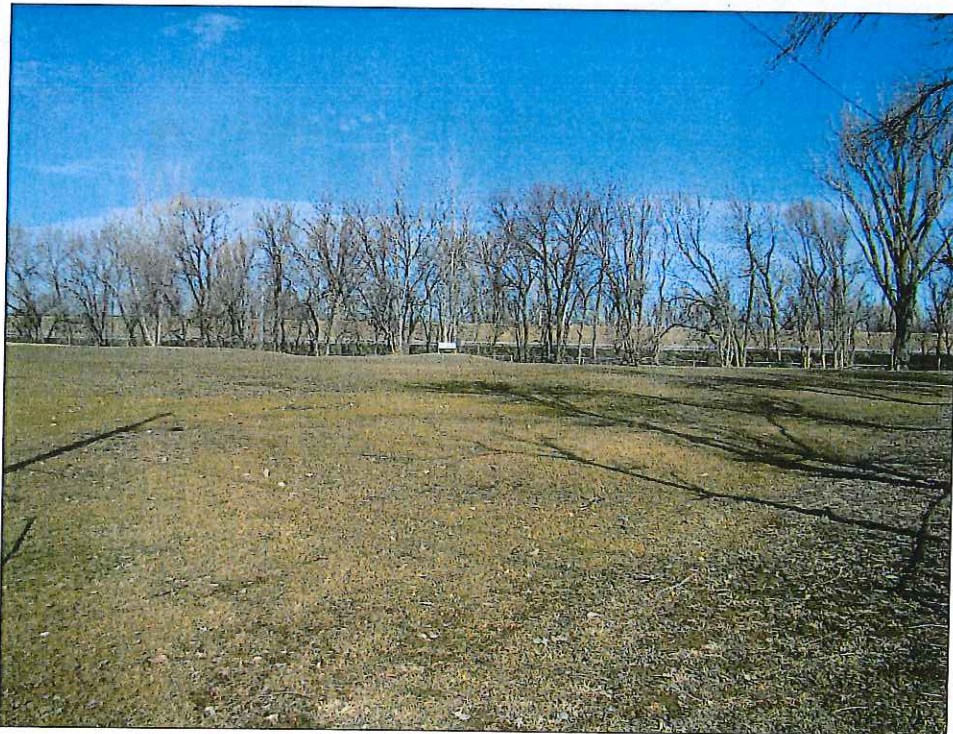


Exhibit E: Aerial view of the subject North 32nd Street right-of-way and the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition.



Exhibit F: Aerial view of the subject North 32nd Street right-of-way and the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition.



Comments

All City departments and local utility providers were notified of the proposed vacation request. The following comments were received:

1. Council Bluffs Public Works Department stated they have a sanitary sewer line within the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition and will need to maintain access, if vacated. Public Works requested a 15 foot-wide ingress/egress easement for equipment access within the subject North 32nd Street right-of-way be provided, if vacated. Public Works also stated a hard-surface driveway must be provided to the proposed detached garage at the time of construction.
2. Council Bluffs Building Division asked general questions about hard-surface paving, vehicular access and the use classification for the proposed detached garage.
3. Council Bluffs Community Development supports vacating the alley section that abuts Lots 1-11, Block 5, Benson's 1st Addition as said alley is unimproved, overgrown with vegetation and inaccessible for vehicular traffic. A water main intersects the alley on the far west-end, adjacent to property at 3244 Avenue 'K', and can be protected with an easement. The Community Development supports vacating the section of North 32nd Street right-of-way, located North of Avenue 'K', subject to the reservation of all requested easements by City departments and local utility companies. Said portion of North 32nd Street is unimproved and is not needed for required access to any abutting properties other than the vacant 1.5 acres owned by the applicant. If this section of North 32nd Street right-of-way is vacated the applicant will still have access to the vacant 1.5 acres via his abutting properties at 3200 and 3204 Avenue 'K'. The applicant might also be able to extend a hard-surface driveway from Avenue 'K' to his vacant parcel with approval from the Public Works Department. The Community Development Department is opposed to vacating the east/west alley that abuts Lots 7-12, Block 4, Benson's 1st Addition due to the extent of sanitary sewer, electrical and cable utilities within in said alley section. The Community Development Department recognizes that many of the abutting property owners have fenced in said alley section and that the eastern half of said alley (abutting Lots 1-6, Block 4, Benson's First Addition and Lots 1- 6, Block 5, Melone's Addition) was previously vacated to assist with the development of the Northgate Apartments off North 31st Street. However, the Community Development Department is of the opinion that the proposed vacation has the potential to negatively impact access and maintenance of existing utilities in said alley which could be detrimental to the public's interest. The Community Development Departments recommends withdrawal of their request to vacate the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition based on the above reasons.
4. Council Bluffs Water Works has a water main that intersects with the east/west alley abutting Lots 10 and 11, Block 5, Benson's 1st Addition and will require an easement to maintain an access, if vacated.
5. Mid-American Energy has overhead power lines within the subject North 32nd Street right-of-way and east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition. Mid-American Energy is opposed to vacating the subject North 32nd Street right-of-way and east/west alley section abutting Lots 7-12, Block 4, Benson's 1st Addition for access and maintenance reasons. Mid-American Energy does not have utilities in the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition and is not opposed to said alley being vacated.
6. Cox Communication has utilities within the subject North 32nd Street right-of-way and east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition. Cox Communication has requested a permanent access easement for their utilities if said alley and right-of-way is vacated. No comments for vacating the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition were provided.
7. Iowa Department of Transportation has no concerns with the proposed alley and/or street right-of-way vacation requests.

On August 25, 2003 the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations*. The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.* All abutting property owners were notified and were sent a petition to sign stating whether they are in favor of/opposed to the vacation and if they are willing/not willing to acquire the portion of alley and/or street right-of-way which abuts their property. The Community Development Department has received the following owner responses as of the date of this report:

- James R. Huff, owner of 3200 and 3204 Avenue 'K' and the vacant 1.5 acres of land to the immediately north of said addresses stated he is in favor of and willing to acquire the alley sections that abut his property at no charge and is also willing to purchase the portion of North 32nd Street right-of-way that abut his property at 3200 Avenue 'K' for the sum of \$673.50.
- Jerry D. Burnside, owner of 3144 Avenue 'K', stated he is in favor of vacating the alley that abuts his property but did not state if he was willing/not willing to acquire the alley section.
- Danny Bates, owner of 3236 Avenue 'K', stated he is in favor of vacating the alley that abuts his property but is not willing to acquire it.
- Patricia A. McCoy, owner of 3208 Avenue 'K', stated she is opposed to and not willing to acquire the portion of alley that abuts her property. The owner included a note on her signed petition that stated she has concerns with mowing the extra property and not having access to her backyard if the alley is vacated.
- Sandra F. Marr, owner of 3214 Avenue 'K', stated she is in favor of and willing to acquire the portion of alley that abuts her property.
- Jason Mailey, owner of 3134 Avenue 'K', stated he is opposed to and not willing to acquire the alley portion that abuts his property.
- Linda Gwennap, owner of 3244 Avenue 'K', stated she is in favor of and willing to acquire the portion of alley that abuts her property.
- ~~Rodger W and Mary Lu Reelf, owners of 2429 Avenue 'A', 11 North 25th Street, 2422 West Broadway and Lot 12, Block 37, Central Subdivision (Lots 12-16, Block 37, Central Subdivision) stated they are in favor of the request and are willing to acquire the portion of alley that abuts their property at no charge.~~

The Community Development Department is still awaiting signed petitions from the following abutting property owners:

- Lochland Holdings, Ltd, owner of 3130 Avenue 'K'. The subject property is being purchased on land contract by a Ms. Mary J. Haynie from Lochland Holdings, Ltd. Ms. Haynie contacted the Community Development Department to inquire if the property owner had returned the signed petition. Ms. Haynie stated that she is in favor of and willing to accept the portion of alley that abuts her property.
- Terry & Brenda Kennedy, owners of 3152 Avenue 'K'. Mr. Kennedy contacted the Community Development Department and stated he is in favor of vacating the abutting east/west alley and North 32nd Street right-of-way. Mr. Kennedy stated that he is willing to acquire the alley section abutting his property at no charge and would like to negotiate the cost of acquiring North 32nd Street right-of-way.
- Diana Muetting, owner of 3136 Avenue 'K'.
- Jeanette L. Figgins, owner of 3210 Avenue 'K'.
- Richard L. & Rosemart A. Moore, owners of 3240 Avenue 'K'.
- Charles & Georgina E. Oliverieri-Schulte, owners of 3206 Avenue 'K'.
- Tracy L. Busse, owners of 3212 Avenue 'K'.

- Northgate Apartments Associated, Ltd, owners of 3131 Avenue 'L'.
2. *To ensure that no property owner is deprived of required and reasonable access.* No property owner(s) will be deprived of required and/or reasonable access if the subject east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition and North 32nd Street right-of-way is vacated. The applicant can provide access to his vacant 1.5 acre parcel via his existing property at 3204 Avenue 'K' and/or by extending a private driveway from said parcel to Avenue 'K'. The Community Development Department recommends withdrawal of the request to vacate the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition due to access and maintenance concerns for existing utilities in said alley section.
 3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* Vacating the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition will not create a dead-end alley. Vacating the subject North 32nd Street right-of-way will not create a dead-end right-of-way but will cause the alley abutting Lots 7-12, Block 4, Benson's Addition to become landlocked. The existing utilities within the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition and the subject portion of North 32nd Street right-of-way can be protected via easements, if vacated. The Community Development Department recommends not vacating the east/west alley that abuts Lots 7-12, Block 4, Benson's 1st Addition in order to protect access and maintenance of utilities within said alley. This alley section will become landlocked if North 32nd Street right-of-way is vacated. An easement over the subject North 32nd Street right-of-way must be maintained in order to provide access to utilities in said alley section.
 4. *To reduce or eliminate hazardous and dangerous traffic conditions.* Not applicable.
 5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.* An easement over the alley section abutting Lots 10 and 11, Block 5, Benson's 1st Addition must be maintained to provide the Council Bluffs Water Works access to their water main. An easement over of the subject North 32nd Street right-of-way must be maintained to provide the City, Mid-American Energy and Cox Communications access to utilities within said right-of-way and within the east/west alley that abuts Lots 7-12, Block 4, Benson's 1st Addition. The Council Bluffs Public Works Department has requested a 15 foot-wide ingress/egress easement for maintenance of their sanitary and storm sewer utilities at the intersection of North 32nd Street and Avenue 'K' be provided. The easement would be used for equipment access and staging.
 6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* The east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition measures 6' x 495' and is inaccessible to vehicular and/or pedestrian traffic due its size and current condition. The subject North 32nd Street right-of-way measures 66' x 130' but is unimproved and is not necessary for pedestrian and vehicular traffic circulation. All of the abutting properties have access to an improved public right-of-way right, with the exception of the vacant 1.5 acre parcel owned by the applicant. Said parcel can be accessed via hard-surface driveway from Avenue 'K' and/or by an adjacent property owned by the applicant if the subject North 32nd Street right-of-way is vacated. The east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition measures 6' x 280' and is inaccessible to pedestrian and/or vehicular traffic due to its size and current condition.
 7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* Not applicable.
 8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with the Bluffs Tomorrow: 2030 Plan (comprehensive plan).

9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.
10. *To establish an equitable price for surplus public property consistent with the adopted policy.* Abutting property owners can acquire their portion of said alleys at no cost. Property owners abutting the subject North 32nd Street right-of-way can each purchase their portion of said right-of-way for the sum of \$673.50.

Recommendation

The Community Development Department recommends the following:

1. Approval to vacate and dispose of the east/west alley abutting Lots 1-11, Block 5, Benson's 1st Addition subject to the reservation of a utility easement abutting Lots 10 and 11, Block 5, Benson's 1st Addition and that all portions be acquired by the abutting property owners.
2. Approval to vacate and dispose of North 32nd Street right-of-way, lying north of Avenue 'K', subject to reservation of an easement for existing utilities and that each abutting property owners purchase their portion of right-of-way for the sum of \$673.50.
3. Denial to vacate the east/west alley abutting Lots 7-12, Block 4, Benson's 1st Addition based on reasons stated above.

Attachment A – Zoning/location map of the subject alley

Attachment B – Letter of intent provided by the applicant

Prepared By: Christopher N. Gibbons, AICP, Planner